



ALAMEDA COUNTY
CONGESTION MANAGEMENT AGENCY

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Memorandum

*January 22, 2009
Agenda Item 7.1
Handout*

DATE: January 22, 2009
TO: CMA Board
FROM: Matt Todd, Manager of Programming
RE: Federal Economic Recovery Legislation

Action Requested

MTC informed the CMA on January 20th that a project list for Local Streets and Roads (LSR) rehabilitation and maintenance projects that could be funded with federal funds in the next few months was required to be submitted to MTC by January 28th, with a final list submittal requested by February 9th. It is recommended that the Board delegate authority to approve a program of LSR rehabilitation and maintenance projects and final programming policy to the PPC, which meets on February 9, 2009. It is also recommended that the Board authorize the Executive Director to make program revisions as required based on the final version of the Federal Economic Recovery Legislation.

Next Steps

Adopt a final program of LSR projects, requested by MTC on February 9, 2009.

Discussion

The Federal Economic Recovery Legislation is under discussion in Congress. Though we do not know many of the specific details that will be included in the final version, we understand that the legislation is anticipated to be approved by mid February prior to a Congressional recess.

The amount of funds to be included in the legislation, including the amount of funds available for roadway infrastructure, and the years of availability are unknown. The latest information indicates that the amount of time that will be allowed to award the economic stimulus projects will be 90 days, reduced from previous drafts of the legislation which included up to 180 days to award projects. MTC estimates that the region may receive about \$140 M of Surface Transportation Program (STP) funds. MTC staff also anticipates that a significant amount of the STP funds will be programmed to Local Streets and Roads (LSR) rehabilitation and maintenance. The Alameda County share of the STP funds for LSR projects is estimated to be \$28.2M. Staff intends to request projects totaling about \$40M in order to accommodate flexibility if certain projects do not meet the minimum program requirements. Alameda jurisdictions have provided an inventory of about \$150M of proposed projects to MTC that could be delivered with an accelerated schedule.

With the reduction in the time allowed to award the projects, MTC has accelerated the due dates of the proposed program of projects from the CMA. MTC has requested a final program by

February 9, 2009. The CMA proposes to transmit a proposed program considered by the Plans and Programs Committee on February 9, 2009.

Staff has released a call for projects, and is proposing to convene a special ACTAC meeting on January 28, 2009 to discuss a draft program of projects. Project applications will be due to the CMA on January 28, 2009. A schedule of the proposed process is included as an attachment.

The final legislation may not be signed into law until mid February. Staff also proposes the Board authorize the Executive Director to make necessary adjustments to the program that may be required once the legislation is finalized. Staff will report back to the Board any revisions to the program.

In general, the program will focus on LSR maintenance and rehabilitation projects. The projects will have to meet Federal Aid eligibility requirements. We also propose that we only consider project construction components with project readiness (ability to award a project within 90 days) as a primary consideration.

Unlike previous federal STP funding cycles, it is anticipated that federal funds will be eligible for up to 100% of the project cost. Staff will also consider exchange opportunities in the programming process. Meeting the 90-day award deadline will most likely be a challenge for many of the projects. The CMA will work with MTC and sponsors on strategies that can expedite the process and ensure delivery.

In the past, MTC has divided LSR funding among the region based on financial need and the CMA has provided planning areas with a portion of the fund estimate based on population. MTC will be using a new formula to distribute the funds regionally that would equally weight financial need, population, mileage, maintenance performance. Staff has released targets for applications based on the new MTC formula distribution.

Financial Impact to the CMA

Activities related to this item are included in the existing budget.

Attachments

- MTC Memo Dated January 20, 2009
- Draft Program Schedule
- Fund estimate/targets
- January 15, 2009 Summary of Transportation Element of the American Recovery and Reinvestment Act of 2009



**METROPOLITAN
TRANSPORTATION
COMMISSION**

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Memorandum

TO: Commission

DATE: January 20, 2009

FR: Executive Director

RE: **Federal Stimulus Update: American Recovery and Reinvestment Act of 2009**

Last week, House Democratic leaders released details of their federal recovery and stimulus plan, titled the American Recovery and Reinvestment Act of 2009. A broad overview of the House bill proposed tax cuts and investments is provided below, as well as some additional detail on the transportation provisions.

Overview

The House package identifies \$825 billion in targeted investments – including \$275 billion in economic recovery tax cuts and \$550 billion in investments. The broad investment categories and amounts are shown below. Of this amount, surface transportation is slated to receive roughly \$40 billion in targeted investment, although there would likely be some investment in transportation infrastructure and fleets through the Clean, Efficient, American Energy target area.

Package Areas	In Billions	%
Clean, Efficient, American Energy	54	7%
Transforming our Economy with Science and Technology	16	2%
Modernizing Roads, Bridges, Transit, and Waterways.	90	11%
Education for the 21st Century	142	17%
Tax Cuts to Make Work Pay and Create Jobs	275	33%
Lowering Healthcare Costs	24	3%
Helping Workers Hurt by the Economy	102	12%
Saving Public Sector Jobs and Protect Vital Services	91	11%
Other - TBD	31	4%
Total	825	100%

Transportation Provisions

Of the \$40 billion identified in the House Democratic leadership proposal for surface transportation investments, \$30 billion is proposed for distribution through the Federal Highway Administration (FHWA) program, \$9 billion through the Federal Transit Administration (FTA) program, and roughly \$1 billion through the Federal Railroad Administration (FRA).

The bulk of the \$30 billion that would flow through the FHWA program would be broad in transportation project eligibility and be apportioned to states in proportion to their 2008 funding levels. Forty-five percent of the state distribution would be sub-allocated through the Surface Transportation Program (STP) formula, providing funding directly to the Transportation Enhancement program and to MTC based on the region's urbanized area share.

The FTA proposed investment categories are as follows:

- Transit Capital Assistance (\$6 billion);
- Fixed Guideway Infrastructure (\$2 billion); and
- Capital Investment Grants (\$1 billion)

Of the roughly \$1.1 billion for the FTA, \$300 million would be directed for intercity passenger rail infrastructure while the remaining \$800 million would be directed to Amtrak for capital and debt service.

For both the FHWA and FTA stimulus funds, the federal share allowance is up to 100%, at the recipient's option.

The House proposal includes several "use it or lose it" requirements. For FHWA and FTA funds distributed to the states and designated recipients, the general requirements are that 50% of the funds must be awarded within 120 days of enactment of the bill. The remaining funds must be obligated by August 1, 2010. In the case of the FHWA funds, if a state fails to meet the deadline, the funds would be redirected to states that have met the award or obligation deadlines.


Bay Area Focus

Under the proposal, the Bay Area would be expected to receive roughly \$140 million through the sub-allocation of STP funds and \$420 million through the FTA programs, including both the transit capital assistance and the fixed guideway infrastructure elements. In addition, projects in the region would likely receive a substantial portion of the remaining \$2 billion in FHWA funds that would flow to the state of California directly. The California Transportation Commission and Caltrans are currently in discussion about their priorities for these state funds. Under state law, the funds would either flow to the SHOPP or STIP. California also would receive roughly \$125 million in STP Transportation Enhancements funds – the Bay Area share would be just over \$20 million. Further, there are several categories of other transportation funds – such as Intercity Rail, FTA Capital Investment Grants, and Public Lands – where Bay Area projects could compete nationally for funding.

Schedule

If this bill stays on the course being outlined by the House leadership, it could be sent to the White House by mid-February for signature. In that vein, we expect to present spending options at the February 11th Programming and Allocations Committee meeting and potentially take final action later that month at the February 25th Commission meeting on spending priorities for the region. To prepare for this aggressive timeline, we are proposing to hold a Partnership Board meeting on February 6th to consult with our regional and local government partners. We will also be meeting with our advisory committees as part of their regularly scheduled meetings in February.

If you have any questions in the meantime, please feel free to contact me, Alix Bockelman, or Randy Rentschler.



Steve Heminger

Draft Schedule – LSR Economic Stimulus

CMA Issues Call for Projects to Jurisdictions	01/22/09
CMA Board Meeting	01/22/09
Project Applications Due to CMA	01/27/09
Special ACTAC meeting	01/28/09
Draft LSR Program due to MTC	01/28/09
ACTAC approves final list	02/03/09
PPC approves final list	02/09/09
CMA Transmits final list of projects to MTC	02/9/09
MTC's Programming and Allocations Committee	02/11/09
CMA Board Meeting	02/26/09

GENERAL PROVISIONS:

- Statement of Purpose (1101)
 - Create and promote jobs
 - Assist those most impacted by the economic recession
 - Provide investments to increase economic efficiency
 - Invest in transportation, environmental protection and other infrastructure
 - Stabilize state and local government budgets
 - Use funds as quickly as possible within prudent budget management
- Preference for Quick Start Activities in Regard to Infrastructure Projects (1102)
 - For the first 50% of funds recipients required to give preference for projects that can be initiated within 120 days of enactment.
 - Recipients shall use grant funds in a manner that maximizes job creation and economic benefit.

FUNDING:

- Funds remain available for obligation until September 30, 2010. (1105)
- Federal departments or agencies may set aside .5% of the appropriated funds for management and oversight. (1106)
 - Department of Transportation Office of Inspector General is appropriated \$20 million for oversight and audit purposes in addition to the amount described above.

FEDERAL HIGHWAY ADMINISTRATION (TITLE XII): \$30 billion

- \$29.41 billion made available for projects and activities eligible for funding under the following programs:
 - Surface Transportation Program {23 USC 133}
 - Bridge {except for discretionary program} {23 USC 144}
 - Interstate and National Highway System {23 USC 103}
 - Interstate Maintenance {23 USC 119}
 - Metropolitan Planning {23 USC 134}
 - Highway Safety Improvement Program {23 USC 148}
 - Congestion Mitigation and Air Quality Program {23 USC 149}
- \$300 million for Indian Reservation Roads {23 USC 204}
- \$250 million for park roads and parkways {23 USC 204}
- \$20 million for highway surface and transportation training {23 USC 140(b)}
- \$20 million for Disadvantaged Business Enterprises Bonding Assistance {49 USC 332(e)}

(Bill Section References are in Parenthesis) {Other US Code References are in brackets}

- Management and Oversight set aside is reduced to .2 percent
- Funds Distribution to States and Regions
 - Distributed to states and territories in the same ratio as their 2008 Obligation limitation.
 - 45 percent of the funds distributed to each State are suballocated using the Surface Transportation Program formulas described in 23 USC 133 (d), which include the following:
 - Transportation Enhancement 10 percent set aside
 - Urbanized Area and rural population distribution formulas.
- Project selection requirements:
 - Recipients must give priority to projects that
 - Can award contracts within 120 days of enactment,
 - Are an approved MTIP and STIP,
 - Are projected to be completed within a three year time frame, and
 - Are located in economically distressed areas defined as meeting one or more of the following criteria (using Bureau of Labor Statistics):
 - * Have a per capita income that is less than 80 percent of national average.
 - * Have an unemployment rate at least 1 percent above national average for the past 24 month period.
 - * Has experienced or is about to experience a special need due to severe unemployment or economic problems as determined by the US Secretary of Labor {42 USC 3161}
- Federal share payable may be up to 100 percent of the total cost of a project at the option of the recipient.
- Cannot use advance construction flexibility.
- 10 percent of the funds shall be expended under DBE requirements.
- Use It Or Lose It Requirements
 - If less than 50 percent of the funds are obligated based on awarded contracts within 120 days of distribution, the remainder of the 50% are redistributed to other states that have met the 50% commitment.
 - Except for the funds suballocated within a state under the Surface Transportation Program provisions described above, the deadline is 90 days and the funds are returned to the State, which may use it anywhere prior to the 120 day deadline described above.
 - Any funds not used by August 1, 2010 shall be redistributed to States that have committed all of their funds.

FEDERAL TRANSIT ADMINISTRATION (TITLE XII): \$9 billion

- Transit Capital Assistance \$6 billion
 - \$5.4 billion for grants under 5307 program and apportioned under formulas in 49 USC 5336
 - Recovery funds cannot be commingled with 5336 funds.
 - \$600 million for grants under the 5311 program
 - Funds cannot be comingled with existing 5311 funds.
 - 3 % or \$18 million of the funds set aside for Public Transit on Indian Reservations.
 - The federal share is up to 100 percent at the discretion of the recipient.
 - Use It Or Lose It Deadline for first 50% is 120 days after apportionment otherwise see Grant Provisions below.
 - 10 percent Disadvantaged Business Enterprise requirement
 - FTA can reserve .75% for administration and oversight of the 5336 and .5% for 5311 funds.
- Fixed Guideway Infrastructure Investment: \$2 billion
 - For capital expenditures under 49 USC 5309 (b)(2) Fixed Guideway Modernization
 - Apportioned using formulas in 49 USC 5337
 - Funds cannot be comingled with funds available under Formula and Bus Grants account.
 - The federal share is up to 100 percent at the discretion of the recipient.
 - Use It Or Lose It Deadline is 120 days after apportionment otherwise see Grant Provisions below.
 - 10 percent Disadvantaged Business Enterprise requirement
 - FTA can reserve 1 % for administration and oversight
- Capital Investment Grants \$1 billion
 - For Major Capital Investment Grants under discretionary allocation.
 - Priority given to projects that can award within 120 days of enactment
 - Use It Or Lose It Deadline for first 50% is 120 days after apportionment otherwise see Grant Provisions below.
 - FTA can reserve 1 % for administration and oversight

FEDERAL RAILROAD ADMINISTRATION (Title XII): \$1.1 billion

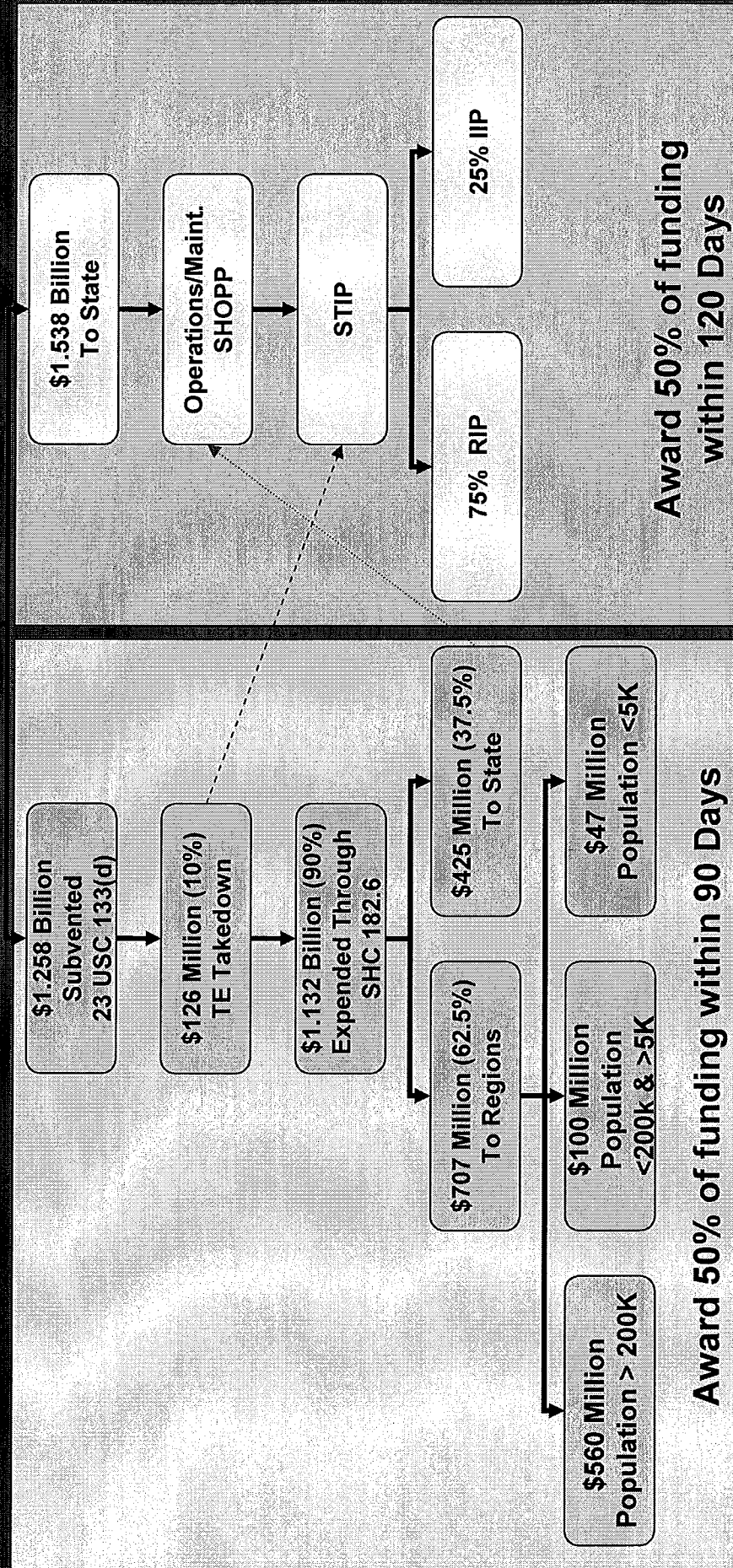
- Capital Assistance for Intercity Passenger Rail: \$300 million
 - US DOT Secretary to give preference for projects that:
 - Can be awarded within 180 days,
 - Are FRA compliant for rolling stock and locomotive acquisitions,
 - Support the development of high speed rail service.
 - Use It Or Lose It requirements are as described in the Grant Provisions below.
 - The federal share is up to 100 percent at the discretion of the recipient.

(Bill Section References are in Parenthesis) {Other US Code References are in brackets}

HOUSE APPROPRIATIONS BILL

CALIFORNIA DISTRIBUTION

\$2.796 Billion
Economic Recovery



Remaining Funds Must Be Awarded No Later Than August 1, 2010